



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 77

RIN 2900-AP07

Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This interim final rule amends Department of Veterans Affairs (VA) regulations to establish a new program to provide grants to eligible entities to provide adaptive sports activities to disabled veterans and disabled members of the Armed Forces. This rulemaking is necessary to implement a change in the law that authorizes VA to make grants to entities other than the United States Olympic Committee for adaptive sports programs. It establishes procedures for evaluating grant applications under this grant program, and otherwise administering the grant program. This rule implements section 5 of the VA Expiring Authorities Extension Act of 2013.

DATES: Effective date: This interim final rule is effective [insert date of publication in the FEDERAL REGISTER].

Comment date: Comments must be received by VA on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

Applicability date: The provisions of this regulatory amendment apply to all grant applications from entities for planning, developing, managing, and implementing

programs to provide adaptive sports activities for disabled veterans and disabled members of the Armed Forces during fiscal years 2014 through 2016.

ADDRESSES: Written comments may be submitted through <http://www.regulations.gov>; by mail or hand delivery to the Director, Regulation Policy and Management (02REG), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1068, Washington, DC 20420; or by fax to (202) 273–9026. Comments should indicate that they are submitted in response to “RIN 2900–AP07, Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.” Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461–4902 (this is not a toll-free number) for an appointment. In addition, during the comment period, comments may be viewed online through the Federal Docket Management System at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Michael F. Welch, Program Specialist, Office of National Veterans Sports Programs and Special Events (002C), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington DC 20420, (202) 632-7136. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: VA is required by 38 U.S.C. 521A to “carry out a program under which the Secretary may make grants to eligible entities for planning,

developing, managing, and implementing programs to provide adaptive sports opportunities for disabled veterans and disabled members of the Armed Forces.” To comply with this law, VA will award grants to eligible entities to provide adaptive sport activities to disabled veterans and disabled members of the Armed Forces. This rule establishes regulations for conducting the grant program including evaluation of grant applications and otherwise administering the grant program in accordance with the law. Section 521A authorizes \$8,000,000 to be appropriated for each fiscal year through 2015 to carry out the grant program. In addition, section 521A(l) specifies that VA may only provide assistance under this program for adaptive sports activities occurring through fiscal year 2016. We will indicate the funding limitation for each of the fiscal years in a Notice of Funding Availability (NOFA) publication in the Office of Management and Budget (OMB)-designated government-wide Web site, to adequately provide notice to eligible recipients of the grants. However, we will not include the funding limitation or indicate the specific fiscal years for the program’s funding in this rule because the amount of authorized appropriations may change and Congress could extend the program. By not including the funding limitation or the specific fiscal years the program is to be funded in this rule, we prevent having a regulation in the Code of Federal Regulations that appeared to restrict or stop the grant program beyond a certain date, when VA may still be authorized to administer the grant program. If funding ceases to be provided or the grant program is not extended, we would not publish a subsequent NOFA in the OMB-designated government-wide Web site for that following fiscal year, and we would amend our regulations to remove this rule from the Code of Federal Regulations.

77.1 Purpose and scope

Section 77.1 establishes the grant program and explains what the program provides. This section indicates that VA may provide grants to eligible entities to plan, develop, manage, and implement programs to provide adaptive sports activities for disabled veterans and disabled members of the Armed Forces.

77.2 Definitions

Section 77.2 defines terms used throughout part 77, and in Notices of Fund Availability (NOFA) for this grant program to be published in the OMB-designated government-wide Web site.

Adaptive sports would be defined to include all sports played by persons with a disability, not just sports that have been modified to meet the needs of persons with a disability. This is because several sports have been specifically created for persons with disabilities and have no equivalent able-bodied sport. We believe that this would be consistent with the legislative intent. In particular, the law provides that the activities for which an eligible entity may reimburse a subgrantee may be used include:

“instruction, participation, and competition in Paralympic sports.” 38 U.S.C. 521A.

There are Paralympic sports that were created specifically for disabled participants, such as Goalball. Permitting grantees to reimburse subgrantees for Paralympic sports activities demonstrates that Congress did not intend to restrict the sports promoted by these grants to just sports that have been modified to meet the needs of persons with a disability. See also 159 Cong. Rec. H7614-H7617 (daily ed. Dec 10, 2013) (Statement

of Rep. Coffman: “participation in adaptive sports and other athletic activities can help speed the rehabilitation process for disabled veterans”).

Adaptive sports activities is defined as that term is defined in 38 U.S.C. 521A(d)(3) except that the regulatory definition does not limit “instruction, participation, and competition” in sports to Paralympic sports as the statutory definition does. Instead, it includes instruction, participation, and competition in adaptive sports. See further discussion of this statutory provision with respect to § 77.15.

Adaptive sports grant is defined as a grant awarded or to be awarded under this part.

Adaptive sports grant agreement is defined as the agreement executed between VA and a grantee as specified under § 77.17.

Applicant is defined as an eligible entity that submits an application for an adaptive sport grant announced in a Notice of Funding Availability.

For purposes of this grant program, 38 U.S.C. 521A(a)(2) provides that an eligible entity must have “significant experience in managing a large-scale adaptive sports program.” In the regulation, we have thus defined “eligible entity” as a Non-Federal Government entity with significant experience in managing a large-scale adaptive sports program for persons with disabilities if those disabilities are those that many disabled veterans and disabled members of the Armed Forces have. The definition provides that to have significant experience, all the key personnel identified in the adaptive sports grant application must have qualifications that demonstrate experience implementing the adaptive sports activities to be provided and demonstrate experience working with persons with the disabilities that the disabled veterans and

disabled members of the Armed Forces to be served through the adaptive sports grant would have. We believe the experience of the applicant's key personnel is the best way to measure whether the applicant has the significant experience required. The regulation further provides that this experience must be for the two continuous years immediately prior to the submission of the grant application. In most cases, two continuous years of experience demonstrates that the key personnel have conducted a program through two fiscal cycles including the planning, implementation and closeout periods associated with adaptive sports activities that have an annual operational cycle. Less than two annual operating cycles most likely means that the key personnel have not conducted an adaptive sports program through an annual program life cycle or successfully transitioned such a program to conduct a subsequent annual program. We also believe that this experience must be in providing adaptive sports activities for those with disabilities that a disabled veteran or disabled member of the Armed Forces might experience. If a key person has experience solely in disabilities that would not be experienced by the current and former military personnel to be served by this program, the person's experience may not translate to effective provision of adaptive sports activities for disabled veterans and disabled members of the Armed Forces. It follows that if more than one entity is providing the activities, the applicant can rely on the combined experience of the entities to demonstrate significant experience. When more than one entity is engaged in the provision of the adaptive sport activities, the entity applying for the adaptive sports grant must provide documentation that verifies that through the partnership, it has the experience necessary to implement all of the adaptive sports activities proposed in the adaptive sports grant application.

DoD is defined as the Department of Defense.

Grantee is defined as an entity that is awarded an adaptive sport grant under this part.

International Paralympic Committee (IPC) is defined as the global governing body of the Paralympic movement.

To be an “eligible entity,” 38 U.S.C. 521A(a)(2) requires that the entity must have “significant experience in managing a large-scale adaptive sports program.” We define Large-scale Adaptive Sports Program as one of three specific categories of programs.

(a) An adaptive sports program of a National Paralympic Committee (NPC) or of a National Governing Body (NGB) that is authorized to provide Paralympic sports programs in one or more States is a Large-scale Adaptive Sports Program because it is part of the International Paralympic program which involves thousands of disabled athletes;

(b) An adaptive sports program of a NGB that has been recognized by an external validating authority such as an international sports entity responsible for international participation in that adaptive sport is a Large-scale Adaptive Sports Program if the external validating authority has recognized programs that in total would meet the requirements of (c) below. While an individual program of the NGB may be small, we believe it can be considered part of a much larger program that the external validating authority has approved; and

(c) An adaptive sports program in which at least 50 persons with disabilities participate or in which the persons with disabilities who participate reside in at least five different congressional districts is a Large-scale Adaptive Sports Program because it

has drawn people from a sufficient population base or has a sufficient number of individuals with disabilities to be considered large-scale. Because some adaptive sports programs are conducted in areas with low eligible participant populations, we believe using five congressional districts is advisable because it shows whether an adaptive sports program is able to draw from a sufficiently large population to be a Large-Scale Adaptive Sports Program. Because congressional districts are based on resident population with an average of 710,767 in the 2010 census, the use of congressional districts establishes a fairly equal standard of outreach capacity. Similarly, having 50 persons with disabilities participate demonstrates the program's ability to draw a large number of individuals when we consider that the population density of eligible participants in the particular program is lower than the general population of persons with disabilities.

National Governing Body (NGB) is defined as an organization that looks after all aspects of a sport and is responsible for training, competition and development for their sports.

National Paralympic Committee (NPC) is defined as the national organization recognized by the International Paralympic Committee (IPC) as the sole representative of athletes with disabilities from their respective jurisdiction.

Notice of funding availability (NOFA) is defined as a Notice of Funding Availability published in the OMB-designated government-wide Web site in accordance with § 77.13 and 2 CFR Part 200.

Paralympics is defined as a series of international contests for athletes with a range of physical and intellectual disabilities, including mobility disabilities, amputations,

blindness, and traumatic brain injury, that are associated with and held following the summer and winter Olympic Games. This is a synthesis of several definitions from dictionaries, including Cambridge, Merriam-Webster, and Oxford, and better meets the program intent.

Participant is defined as a disabled veteran or disabled member of the Armed Forces who is receiving adaptive sport activities from a grantee.

Partnership is defined to include any arrangement in which the parties agree to cooperate and not just a legal partnership.

Peer review is defined as the technical and programmatic evaluation by a group of experts qualified by training and experience to give expert advice, based on selection criteria established under § 77.13 or in a program announcement, on the technical and programmatic merit of adaptive sports grant applications.

Persons with a disability is defined to include persons with physical and intellectual disabilities.

Sport is defined as a usually-competitive individual or group physical activity governed by a set of rules or customs, which, through casual or organized participation, aim to use, maintain, or improve physical ability and skills while normally providing entertainment to participants.

VA is defined as the Department of Veterans Affairs.

Veteran is defined using the definition in § 3.1 of this title.

Veterans Service Organization (VSO) is defined to include both organizations recognized to represent veterans with regard to their claims for VA benefits (and their subgroups) and nonprofit entities registered with the U.S. Government that have a

primary mission to provide services to veterans and disabled members of the Armed Services. Subgroups of recognized organizations are included because they may desire to apply for a grant on their own behalf.

77.3 Grants—general

Section 77.3(a) establishes that only eligible entities may receive grants under this grant program. Section 77.3(b) establishes that the grant amounts will be specified in the NOFA. Section 77.3(c) specifies that VA will not require an applicant to provide matching funds as a condition of receiving a grant. Section 77.3(d) specifies that a grantee may not charge a participant for adaptive sports activities that were outlined in the adaptive sports grant application. This is done to ensure that participants have the most access to these adaptive sports activities as feasible, regardless of their ability to pay and to ensure that a grantee does not penalize participants for the grantee's poor financial planning. However, this provision does not prohibit the grantee from charging participants for activities or services that were not outlined in the adaptive sports grant application. Section 77.3(e) specifies that the adaptive sports grant is not a veteran's benefit, and, therefore is not subject to the same rights of appeal as an adjudication of benefits. See 38 U.S.C. 7104(a).

77.4 Applications

Section 77.4 addresses grant application procedures. Section 77.4(a) requires applicants to submit a complete grant application package to apply for an initial grant, as described in the NOFA. Section 77.4(b) requires applicants to submit a complete

renewal grant application package to be considered for a renewal grant if the grantee's program remains substantially the same and specifies that the renewal grant application procedures to be followed will be described in the NOFA. By allowing grantees to submit a renewal grant application, additional grant funds could be sought for subsequent fiscal years with little or no interruption in the provision of adaptive sports services. Section 77.4(c) requires applicants to submit a grant application package to be considered for a noncompetitive grant and specifies that the grant application must meet the same format as outlined for competitive grants in the NOFA.

77.5 Selection criteria

Section 77.5(a) specifies the selection criteria for grant applications. The criterion in § 77.5(a) will require the application to have a clearly defined plan for successful program implementation demonstrated by scope, budget, staffing, and timeframe. The existence of basic parameters such as those set forth is a reliable indicator that the program is well thought out, and likely to be successfully implemented. The criterion in § 77.5(a) also will allow VA to give priority to proposals that will provide adaptive sports activities that are aligned with the identified needs of disabled veterans and disabled members of the Armed Forces. Moreover, the criteria will allow VA, to the extent feasible, to target geographic areas which have limited adaptive sports opportunities. Section 77.5(b) establishes that supplementary information that clarifies the selection criteria in § 77.5(a) may be set forth in the NOFA. Section 77.5(b) also establishes that VA will establish in the NOFA a relative weight for each selection criteria.

77.6 Amendments to grant applications

Section 77.6 authorizes an applicant to amend an adaptive sports grant application. The section limits the type of amendment that will be accepted after the deadline for submitting applications. These limits are necessary because allowing major changes such as a change in scope of an application or increasing the grant amount by more than a total of 10 percent after the deadline would most likely disrupt VA's review of the grant applications and result in a delay or cancellation of grant awards.

77.7 Withdrawal of grant applications

Section 77.7 establishes the process for an applicant to withdraw an adaptive sports grant application from consideration for award.

77.8 Additional requirements and procedures for applications

Section 77.8 establishes additional requirements and procedures for adaptive sports grant applications. Section 77.8(a) requires applications to meet the requirements of the NOFA and permits VA to require applicants to submit pre-applications prior to submission of an application. Section 77.8(b) authorizes cooperative arrangements among eligible entities and submission of joint applications. Section 77.8(c) authorizes evaluation of all applications. Section 77.8(d) authorizes VA consideration of an applicant's performance on prior awards and an applicant's past noncompliance with grant requirements. Section 77.8(e) requires applicants to meet

Federal fiscal standards as reflected in 2 CFR 200. Section 77.8(f) sets forth the options that VA has with respect to applications based on the review of the applications. Section 77.8(g) requires that VA must notify an applicant in writing of the disposition of an application and must issue a signed grant agreement to an applicant of an approved application. Section 77.8(h) discusses the availability of grant funds and the effective date of the grant. Additionally, § 77.8(h) provides that grant funds will only be used to pay for costs incurred prior to the effective date of the grant if the costs are authorized by VA and are otherwise allowable.

77.9 Use of pre-applications

Section 77.9 authorizes VA to use pre-applications for adaptive sports grants. In the case of competitive grant awards for which a large number of applications is expected, VA may require pre-applications (concept papers) which may be used to eliminate those pre-applications which fail to meet minimum requirements for a grant criteria under this regulation or clearly lack sufficient merit to qualify as potential candidates for funding consideration. A pre-application in a noncompetitive grant situation may validate both the capability of the adaptive sports entity to provide the unique activity sought and verify that a noncompetitive condition exists prior to engaging in a thorough adaptive sports grant development process.

77.10 Peer review methods

The quantity and complexity of formal adaptive sports grant applications that meet minimum requirements may create a large administrative workload; thus § 77.10

permits VA to subject both pre-applications and formal applications to the peer review process in order to more efficiently and effectively manage the selection of adaptive sports grants. Section 77.10(a) establishes how peer reviewers will provide their views and that peer review may be conducted at meetings and through mail reviews. Site visits may also be scheduled. Prior to conducting a meeting of peer reviewers, VA will take steps to comply with the Federal Advisory Committee Act. To further the efficient review of formal grant applications, § 77.10(b) establishes that VA staff will conduct an initial review of grant applications prior to peer review and eliminate from further consideration those applications that do not meet minimum program requirements specified in this regulation and weighting factors provided in the NOFA.

77.11 Outreach required

Section 77.11(a) requires eligible entities to agree to conduct outreach as required by 38 U.S.C. 521A(e). In order to ensure that outreach is appropriate for adaptive sports programs being conducted at the community level, § 77.11(b) establishes outreach requirements for those programs. Similarly, to ensure that outreach is appropriate for adaptive sports programs occurring at the national and regional levels, § 77.11(c) establishes outreach requirements for grantees conducting programs at that level.

77.12 Notice of funding availability

To comply with OMB rules regarding notices of funding opportunities in 2 CFR Part 200, § 77.12 establishes that VA will publish a NOFA in the OMB-designated

government-wide Web site when funds are available to award grants. Section 77.12(a)-(f) specifies additional information that a NOFA must include. This additional information is intended to ensure that eligible entities have the information required to apply for grants.

77.13 Applications for noncompetitive adaptive sports grants

VA believes that in some cases awarding adaptive sports grants using a noncompetitive process may be more effective and efficient than using the competitive grant process. This includes instances where there is only one responsible source for a particular adaptive sport and no other providers capable of meeting the agency requirements. To set forth when noncompetitive adaptive sports grants are appropriate, § 77.13(a) establishes the criteria for an entity to qualify for a noncompetitive adaptive sports grant. Section 77.13(b) establishes that an applicant for a noncompetitive grant must submit an adaptive sports grant application in a manner similar to the competitive adaptive sports grant process. Section 77.13(c) establishes information that must be included in the application for a noncompetitive adaptive sports grant.

77.14 Grant agreements

Section 77.14(a) establishes that upon a grantee being awarded a grant, VA will draft a grant agreement to be executed by VA and the grantee. Upon execution, VA obligates the grant amount. Section 77.14(a) also requires that a grantee agree to operate the program in accordance with the pertinent regulations and in accordance with the grant application. To ensure that someone is responsible for equipment purchased with grant

money, to protect veterans using adaptive sports equipment, and to ensure that those injured using the equipment are fairly compensated, § 77.14(b) mandates that grant agreements include provisions to address these issues. Section 77.14(c) establishes authorized levels of administrative and personnel expenses as directed in 38 U.S.C. 521A(d)(4). VA has determined administrative and personnel expenses are necessary to implement adaptive sports grants and declines to prohibit grant funds from being used for these purposes. Section 77.14(d) implements section 521A(a)(1), (d)(2)(C)(i), and (ii) to permit the grant agreement to authorize grantees to support or provide services (including adaptive sports activities) to individuals with disabilities who are not veterans or members of the Armed Forces, or both, but to prohibit grant funds from being used to support or provide services (including adaptive sports activities) to those individuals. Finally, § 77.14(e) provides that the agreement will prohibit grant funds from being used to support or provide services to veterans or former servicemembers who are generally barred from qualifying for VA benefits or services due to the character of their discharge or other disqualifying aspects of their service.

77.15 Payments under the grant

Section 77.15(a) notifies grantees that information regarding the timeframe and manner of payment of grants will be described in the NOFA. Section 77.15(b) implements the requirement in 38 U.S.C. 521A(d) that payments of grant funds by grantees to subgrantees for instruction, participation, and competition in sports may only be made for instruction, participation, and competition in Paralympic sports. This means that payments of grant funds to subgrantees cannot be used for instruction,

participation, and competition in sports other than Paralympic sports. This limitation is not applicable to the grantee's use of grants funds for other than subgrants.

77.16 Grantee reporting requirements

In order to comply with 38 U.S.C. 521A(j) and to obtain information in order to analyze the performance of the grantee's program, § 77.16(a) specifies that all grantees must submit an annual report with specific information.

To obtain information in order to analyze the grantee's program, § 77.16(b) requires that all grantees also submit quarterly reports containing the same information required to be in the annual report. Section 77.16(c) requires that any changes occurring in a grantee's program which deviate from the grant agreement must be reported to VA. Review of the reports detailed in § 77.16(a)-(c) ensures that grant funds are being consistently used in accordance with the grant agreements. Section 77.16(d) allows VA to request other information or documentation related to a grant, in the event that information is necessary, to fully assess the success of the program. This further assists VA in determining whether grant funds were used appropriately if any part of the required reports as submitted by a grantee is inadequate. Section 77.16(e) cites non-compliance effects, because if a grantee does not submit the annual report required under this section for any fiscal year, the grantee shall not be eligible to receive a grant under this part for the subsequent fiscal year.

77.17 Recovery of funds by VA

Section 77.17 establishes that VA may recover grant funds from a grantee under certain circumstances. Section 77.17(a) provides that VA may recover grant funds where the funds were not used in accordance with the grant agreement. Section 77.17(a) also explains that VA will issue a notice to the grantee expressing VA's intent to recover funds and that VA will provide the grantee an opportunity to respond prior to VA's final decision that action be taken to recover the funds. Section 77.17(b) specifies that, where VA makes a final decision that action will be taken to recover grant funds from a grantee, the grantee will be prohibited from receiving further grant funds from VA. This helps safeguard Federal funds and ensures the best use of the grants.

77.18 Visits to monitor operations and compliance

Section 77.18 establishes the right for VA to conduct reasonable visits to all grantee locations where a grantee is using adaptive sports grant funds in order to review grantee accomplishments and management control systems, determine compliance with grant provisions, and to provide such technical assistance as may be required. In the event that a grantee delivers services at a location away from the grantee's place of business, VA may accompany the grantee. If any visit is made by VA on the premises of the grantee or a subcontractor under the adaptive sports grant, the grantee must provide, and must require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of the VA representatives in the performance of their duties. All visits and evaluations will be performed in such a manner as will not unduly delay services.

77.19 Financial management

Section 77.19 establishes the requirement for grant recipients to comply with financial management requirements for recipients of Federal awards.

77.20 Recordkeeping

Section 77.20 establishes the recordkeeping requirements for grant recipients and authority for VA to request information during the timeframe of record retention.

77.21 Application of other regulations

Section 77.21 establishes that VA's administrative requirements for grantees in 38 CFR Parts 43 and 49 do not apply to grants under this part. The requirements in Parts 43 and 49 have been superseded by the regulations in 2 CFR Part 200.

Effect of Rulemaking

The Code of Federal Regulations, as revised by this rulemaking, represents the exclusive legal authority on this subject. No contrary rules or procedures will be authorized. All VA guidance will be read to conform with this rulemaking if possible or, if not possible, such guidance will be superseded by this rulemaking.

Administrative Procedure Act

Pursuant to section 5 of Public Law 113-59 (December 20, 2013), to ensure the uninterrupted provision of adaptive sports for disabled veterans and disabled members of the Armed Forces, any regulations that the Secretary of Veterans Affairs determines

are necessary to implement the amendments made by this section may be promulgated by interim final rules to ensure the award of grants before the end of fiscal year 2014.

Paperwork Reduction Act

This interim final rule includes a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that requires approval by OMB. Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Sections 77.4, 77.8, 77.9, 77.13, 77.16, and 77.19 contain collections of information under the Paperwork Reduction Act of 1995. If OMB does not approve the collections of information as requested, VA will immediately remove the provisions containing a collection of information or take such other action as is directed by OMB.

Comments on the collections of information contained in this interim final rule should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, 725 17th Street, NW, Washington, DC 20503, or sent through electronic mail to oir_submission@omb.eop.gov. Comments should indicate that they are submitted in response to “RIN 2900-AP07-Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.”

VA is requesting expedited review of the collections of information by OMB, pursuant to 44 U.S.C. 3507(j). Comments must be received within 14 days of the publication of this rulemaking. This does not affect the deadline for the public to comment on the interim final rule. VA considers comments by the public on proposed collections of information in—

- Evaluating whether the collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collections of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The amendments to title 38 CFR Part 77 contain collections of information under the Paperwork Reduction Act of 1995 for which we are requesting approval by OMB. These collections of information are described immediately following this paragraph, under their respective titles.

Title: Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.

Summary of collections of information: The interim final rule at § 77.4(a) contains application provisions for initial grants and at § 77.4(b) application provisions for renewal grants. The interim final rule at § 77.6 contains provisions for submitting amendments to grant applications. The interim final rule at § 77.8(a) contains additional provisions for grant applications and pre-applications. The interim final rule at § 77.9 contains provisions for pre-applications for competitive and noncompetitive grants. The interim final rule at § 77.13 contains application provisions for noncompetitive adaptive sports grants and provides provisions for an adaptive sports entity to submit documentation to be considered eligible for a noncompetitive grant.

The interim final rule at § 77.16 requires each grantee submit to VA annual and quarterly reports; the annual and quarterly reports would include detailed records of the direct and supporting time expended in the provision of adaptive sports activities, individual adaptive sports activities conducted in the provision of the adaptive sports grant, adaptive sports programs carried out through partnerships with VA, DoD, VSOs, and other adaptive sports entities, the number of veterans who participated in the adapted sports activities funded by the grant, the locations where adaptive sports activities were conducted, accounting of how the grant funds were used including the administrative and personnel expenses incurred by the grantee in carrying out the program and such expenses paid for using grant funds, description of all partnerships at the national and local levels and the programs carried out under such partnerships, and any changes in a grantee's program activities which result in deviations from the grant agreement. The interim final rule at § 77.19 requires grantees must maintain financial

management systems that comply with applicable requirements established in 2 CFR Part 200.

Grant Applications

Description of the need for information and proposed use of information: This information is needed to award initial grants and to award renewal grants to eligible entities.

Description of likely respondents: National Paralympic Committees, National Governing Bodies, Veterans Service Organizations, colleges and universities, hospitals, Paralympic Sport Clubs, Parks and Recreation Departments, and other qualified adaptive sport entities.

Estimated number of respondents per year: Initial Grants 100. Renewal Grants 50.

Estimated frequency of responses per year: Initial Grants 1. Renewal Grants 1.

Estimated total annual reporting and recordkeeping burden: 2625 hours.

Estimated average burden per response: Initial Grant 25 hours. Renewal Grants 10 hours.

Annual Reports

Description of the need for information and proposed use of information: This information is needed to determine compliance with the requirements for a grant.

Description of likely respondents: National Paralympic Committees, National Governing Bodies, Veterans Service Organizations, colleges and universities, hospitals,

Paralympic Sport Clubs, Parks and Recreation Departments, and other qualified adaptive sport entities.

Estimated number of respondents per year: 150.

Estimated frequency of responses per year: 1.

Estimated total annual reporting and recordkeeping burden: 300 hours.

Estimated average burden per response: 2 hours.

Quarterly Fiscal Reports

Description of the need for information and proposed use of information: This information is needed to determine compliance with the requirements for a grant.

Description of likely respondents: National Paralympic Committees, National Governing Bodies, Veterans Service Organizations, colleges and universities, hospitals, Paralympic Sport Clubs, Parks and Recreation Departments, and other qualified adaptive sport entities.

Estimated number of respondents per year: 150.

Estimated frequency of responses per year: 4.

Estimated total annual reporting and recordkeeping burden: 450 hours.

Estimated annual burden per response: 45 minutes.

Regulatory Flexibility Act

The Acting Secretary hereby certifies that this interim final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Due to demographic,

economic, infrastructure, and many other factors, a large percentage of small adaptive sports entities do not have sufficient participants, programs and outreach to qualify as an eligible entity under Public Law 113-59. In regions where the disabled veteran population is small relative to participants needed in the entity's applicable adaptive sports areas of expertise, an adaptive sports entity faces constraints in developing a viable grant program. Therefore, the number of small adaptive sports entities involved will be few and their existing programs that meet threshold criteria for eligibility would indicate competence to conduct a viable adaptive sports grant program. There would be no economic impact on any of the eligible entities, as they are not required to provide matching funds to obtain the maximum grant allowance as established under 38 U.S.C. 521A. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a "significant regulatory action," which requires review by OMB, unless OMB waives such review, as "any regulatory action that is likely to result

in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www1.va.gov/orpm/>, by following the link for “VA Regulations Published.”

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number and title for the program affected by this document is 64.034, Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces.

Signing Authority

The Acting Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, approved this document on June 23, 2014 for publication.

List of Subjects in 38 CFR Part 77

Administrative practice and procedure, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: June 24, 2014

William F. Russo, Deputy Director,
Regulation Policy and Management,
Office of the General Counsel,
Department of Veterans Affairs.

For the reasons stated in the preamble, VA amends 38 CFR chapter I by adding part 77, to read as follows:

PART 77 --GRANTS FOR ADAPTIVE SPORTS PROGRAMS FOR DISABLED
VETERANS AND DISABLED MEMBERS OF THE ARMED FORCES

Sec.

77.1 Purpose and scope.

77.2 Definitions.

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§ 77.1 Purpose and scope.

This section establishes the Grants for Adaptive Sports Programs for Disabled Veterans and Disabled Members of the Armed Forces program. Under this program, VA may provide grants to eligible entities to plan, develop, manage, and implement programs to provide adaptive sports activities for disabled veterans and disabled members of the Armed Forces.

(Authority: 38 U.S.C. 521A)

§ 77.2 Definitions.

For the purposes of this part and any Notice of Funding Availability (NOFA) issued pursuant to this part:

Adaptive sports means a sport that has either been adapted specifically for persons with a disability or created specifically for persons with a disability.

Adaptive sports activities means:

- (1) Instruction, participation, and competition in adaptive sports;
- (2) Training and technical assistance to program administrators, coaches, recreational therapists, instructors, Department employees, and other appropriate individuals; and

(3) Coordination, Paralympic classification of athletes, athlete assessment, sport-specific training techniques, program development (including programs at the local level), sports equipment, supplies, program evaluation, and other activities related to the implementation and operation of the program.

Adaptive sports grant means a grant awarded or to be awarded under this part.

Adaptive sports grant agreement means the agreement executed between VA and a grantee as specified under § 77.17.

Applicant means an eligible entity that submits an application for an adaptive sports grant announced in a NOFA.

DoD means the Department of Defense.

Eligible entity means a Non-Federal Government entity with significant experience in managing a large-scale adaptive sports program for persons with disabilities if those disabilities are those that many disabled veterans and disabled members of the Armed Forces have. To demonstrate significant experience, all the key personnel identified in the adaptive sports grant application of the entity must have experience implementing the adaptive sports activities to be provided and have experience working with persons with disabilities that many disabled veterans and disabled members of the Armed Forces to be served through the adaptive sports grant have. The experience must be for two continuous years immediately prior to the date of submission to VA of the grant application. When more than one entity would be engaged in the provision of the adaptive sport activities, the entity applying for the adaptive sports grant must provide documentation that verifies that through the

partnership, it has the experience necessary to implement all of the adaptive sports activities proposed in the adaptive sports grant application.

Grantee means an entity that is awarded an adaptive sports grant under this part.

International Paralympic Committee (IPC) means the global governing body of the Paralympic movement.

Large-scale adaptive sports program means

(1) An adaptive sports program of a National Paralympic Committee (NPC) or of a National Governing Body (NGB) that is authorized to provide Paralympic sports programs in one or more States;

(2) An adaptive sports program of a NGB that has been recognized by an external validating authority if the programs validated by that authority would meet the requirements of paragraph (3) of this definition if considered one program; and

(3) An adaptive sports program in which at least 50 persons with disabilities participate or in which the persons with disabilities who participate in the program reside in at least five different congressional districts.

National Governing Body (NGB) means an organization that looks after all aspects of a sport and is responsible for training, competition and development for their sports.

National Paralympic Committee (NPC) means the national organization recognized by the International Paralympic Committee (IPC) as the sole representative of athletes with disabilities from their respective jurisdiction.

Notice of funding availability (NOFA) means a Notice of Funding Availability published in the OMB-designated government-wide Web site in accordance with § 77.13 and 2 CFR Part 200.

Paralympics means a series of international contests for athletes with a range of physical and intellectual disabilities, including mobility disabilities, amputations, blindness, and traumatic brain injury, that are associated with and held following the summer and winter Olympic Games.

Participant means a disabled veteran or disabled member of the Armed Forces who is receiving adaptive sport activities from a grantee.

Partnership means any type of arrangement in which the parties agree to cooperate and is not limited to a legal partnership.

Peer review means the technical and programmatic evaluation by a group of experts qualified by training and experience to give expert advice, based on selection criteria established under § 77.13 or in a program announcement, on the technical and programmatic merit of adaptive sports grant applications.

Persons with a disability includes persons with physical and intellectual disabilities.

Sport means a usually competitive individual or group physical activity governed by a set of rules or customs, which, through casual or organized participation, aim to use, maintain or improve physical ability and skills while normally providing entertainment to participants.

VA means the Department of Veterans Affairs.

Veteran means a person described in § 3.1 of this title.

Veterans Service Organization (VSO) means an organization recognized by the Secretary of Veterans Affairs for the representation of veterans under section 5902 of title 38, United States Code, a subgroup of such an organization, or a nonprofit entity registered with the U.S. Government that has a primary mission to provide services to veterans and members of the Armed Services.

(Authority: Pub. L. 111–163, 38 U.S.C. 501)

§ 77.3 Grants—general.

(a) Grants. VA may award adaptive sports grants to eligible entities.

(b) Maximum amount. The maximum grant amounts to be awarded will be specified in the NOFA.

(c) No matching requirement. A grantee will not be required to provide matching funds as a condition of receiving such grant.

(d) Participants will not be charged. A grantee may not charge participants a fee for providing adaptive sports activities that were outlined in their adaptive sports grant application.

(e) Grant is not veteran's benefit. The grant offered by this chapter is not a veteran's benefit. As such, the decisions of the Secretary are final and not subject to the same appeal rights as decisions related to veterans benefits.

(Authority: 38 U.S.C. 521A)

§ 77.4 Applications.

(a) Initial application. To apply for an initial grant, an applicant must submit to VA a complete grant application package, as described in the NOFA.

(b) Renewal application. After receiving an initial grant, grantees may apply for a renewal grant if the grantee's program will remain substantially the same. The grantee must submit to VA a complete renewal application as described in the NOFA. Because evaluations of renewal applications rely on performance data related to the initial grant, the application and supporting documentation may vary from the initial application; however, renewal applications are competitive grants and will be evaluated under competitive grant selection processes.

(c) Noncompetitive application. When a condition exists for a noncompetitive grant as outlined in § 77.15, the adaptive sports entity may submit a noncompetitive application that meets the same format as outlined for competitive grants set forth in the NOFA.

(Authority: 38 U.S.C. 521A)

(OMB has approved the information collection requirements in this section that are within the scope of control numbers 0348-0043 for Standard Form 424 & 0348-0041 for Standard Form 424C. The additional information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.5 Selection criteria.

(a) VA will review all applications for adaptive sports grants using the following selection criteria:

(1) The adaptive sports activities to be provided by the program are clearly stated;

(2) The objectives of the proposed program are clearly defined;

(3) The program design is based on facts, good reasoning, sound judgment, and logic, and contains program elements directly linked to the achievement of program objectives;

(4) The program management structure is adequate to the successful conduct of the program;

(5) The applicant's capability (including support provided by any partnership or partnerships) is demonstrated at a level sufficient to successfully support the program;

(6) Budgeted costs are reasonable, allowable and produce good value for the amount of funds paid for the activities proposed to be undertaken;

(7) The proposed program provides adaptive sports opportunities in geographic regions where VA has identified limited sports opportunities for disabled veterans and disabled members of the Armed Forces;

(8) The proposed program provides an adaptive sports activity or adaptive sports activities that meet the current needs and priorities for disabled veterans and disabled members of the Armed Forces; and

(9) Inclusion of all required information in the grant application as specified by 38 U.S.C. 521A(c).

(b) NOFA announcements may also clarify the selection criteria in paragraph (a) of this section. The relative weight (point value) for each selection criterion will be specified in the NOFA.

§ 77.6 Amendments to grant applications.

An applicant seeking to amend its grant application must submit a revised Standard Forms 424 (Application for Federal Assistance) and 424C (Budget Information) with a narrative description of, and justification for, the amendment. An applicant may submit an amendment after the deadline for submission of applications and prior to grant award if the amendment does not change the scope of the application. In addition, amendments submitted after the deadline and prior to grant award cannot increase the amount of the grant requested by more than a total of 10 percent.

(OMB has approved the information collection requirements in this section under control number 0348-0043 for Standard Form 424 & 0348-0041 for Standard Form 424C.)

§ 77.7 Withdrawal of grant application.

An applicant may withdraw its application by submitting to VA a written document that withdraws the application.

§ 77.8 Additional requirements and procedures for applications.

(a) Application for grants. An applicant may submit, on or before the submission deadline date established in a NOFA, an application in accordance with the instructions in the NOFA and including the forms specified in the NOFA. Such application must be signed by the applicant or an official or representative of the applicant duly authorized to make such application and to assume on behalf of the applicant the obligations imposed

by law, applicable regulations, and any additional terms and conditions of the grant. VA may require in the NOFA for applicants to submit a pre-application for review and approval prior to the submission of an application.

(b) Partnerships. (1) Eligible entities may enter into partnerships with other eligible entities, including those in other States, and submit joint applications for adaptive sports grants.

(2) A joint application made by two or more applicants may have separate budgets corresponding to the programs, services and activities performed by each of the joint applicants or may have a combined budget. If a joint application presents separate budgets, VA may make separate awards, or may award a single award authorizing separate amounts for each joint applicant.

(c) Evaluation of applications submitted. All applications submitted shall be evaluated. After the initial internal or peer review, additional internal evaluations and/or peer reviews may be used.

(d) Applicant's performance on prior award. When the applicant has previously received an award from VA or another Federal agency, the applicant's noncompliance with requirements applicable to such prior award as reflected in past written evaluation reports and memoranda on performance, and the completeness of required prior submissions, may be considered by VA. In any case where VA proposes to deny a grant based upon the applicant's noncompliance with requirements applicable to the prior award, VA shall do so only after affording the applicant notice and a reasonable opportunity to rebut the proposed basis for denial of a grant.

(e) Applicant's fiscal integrity. Applicants must meet and maintain standards of fiscal integrity for participation in Federal grant programs as reflected in 2 CFR part 200.

(f) Disposition of applications. Upon review of an application and dependent on availability of funds, VA will:

(1) Approve the application for funding, in whole or in part, for such amount of funds, and subject to such conditions that VA deems necessary or desirable;

(2) Determine that the application is of acceptable quality for funding, in that it meets minimum criteria, but disapprove the application for funding because it did not rank sufficiently high in relation to other applications to qualify for an award based on the level of funding available;

(3) Disapprove the application for failure to meet the applicable selection criteria at a sufficiently high level in comparison to other applications to justify an award of funds, or for another reason as provided in the documentation of the decision; or

(4) Defer action on the application for such reasons as lack of funds or a need for further review.

(g) Notification of disposition. VA will notify the applicant in writing of the disposition of the application. A signed grant agreement form will be issued to the applicant of an approved application.

(h) Availability of grant funds. Federal financial assistance is normally available only with respect to obligations incurred subsequent to the effective date of the grant. The effective date of grant will be set forth in the grant agreement. Recipients may be reimbursed for costs resulting from obligations incurred before the effective date of the grant, if such costs are authorized by VA in the NOFA, the grant agreement or

subsequently by VA in writing, and otherwise would be allowable as costs of the grant under applicable guidelines, regulations, and terms and conditions of the grant agreement.

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.9 Use of pre-applications.

VA may request pre-applications for competitive and noncompetitive grant applications. Such request would be made in a NOFA.

(OMB has approved the information collection requirements in this section that are within the scope of control numbers 0348-0043 for Standard Form 424 & 0348-0041 for Standard Form 424C. The additional information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.10 Peer review methods.

(a) VA may subject both pre-applications and formal applications to a peer review process. For both competitive and noncompetitive applications, peer review will normally consist of written comments based on the selection criteria established in § 77.5 and any weighting factors identified in the NOFA or conveyed in writing to the noncompetitive applicant, together with the assignment of numerical values. Peer review may occur at meetings of peer reviewers that are held under VA oversight, through mail reviews, or a combination of both. When advisable, site visits may also be employed. The method of peer review anticipated for each announced competitive

program, including the weighting factors to be used by peer reviewers, will be specified in each NOFA.

(b) When formal applications are required in response to a NOFA, an initial review will be conducted by qualified VA staff, in order to eliminate from peer review consideration applications which do not meet minimum program requirements. Such requirements as listed in § 77.5 and weighting factors will be specified in the NOFA. Applications determined to be qualified and eligible for further consideration may then be considered under the peer review process.

§ 77.11 Outreach required.

(a) As a condition of receiving a grant under this part, an eligible entity must agree to conduct a joint outreach campaign with VA to inform all eligible veterans and separating members of the Armed Forces with physical disabilities about the existence of the adaptive sports activities funded by the grant, as appropriate, and shall provide for, facilitate, and encourage participation of such veterans and separating members of the Armed Forces in programs under this part to the extent possible.

(b) For grantees conducting adaptive sports activities at the community level, outreach must include active liaison with local VA and DoD facilities; State, local, and tribal governments; and VSOs, private agencies, and organizations providing adaptive sport activities to disabled veterans and disabled members of the Armed Forces to be served by the grantee.

(c) For grantees conducting adaptive sports activities occurring at the national and regional levels, outreach must include active liaison with VA and DoD, State

governments, VSOs, and private agencies and organizations providing adaptive sport services to disabled veterans and disabled members of the Armed Forces to be served by the grantee and tailored as appropriate to the deliverables of the grant.

(Authority: 38 USC 521A(e))

§ 77.12 Notice of funding availability.

When funds are available for grants, VA will publish a NOFA in the OMB-designated government-wide Web site. The notice will identify:

- (a) The information required to be in notices of funding opportunities in 2 CFR Part 200;
- (b) The location for obtaining grant applications;
- (c) The date, time, and place for submitting completed grant applications;
- (d) The estimated amount and type of grant funding available;
- (e) The length of term for the grant award, covering the amount of time the award remains in effect through date of completion;
- (f) The minimum scores and scores per mandatory evaluation criteria area in § 77.5 that an applicant must receive in order for a grant to be considered for funding; and
- (g) The timeframe and manner for payments under the grant.

(Authority: 38 U.S.C. 521A)

§ 77.13 Applications for noncompetitive adaptive sports grants.

(a) When VA identifies that an eligible entity is the only entity capable of providing an adaptive sports activity for disabled veterans and disabled members of the Armed Forces, and VA determines that the award of a grant to this entity is warranted to enable adaptive sports activities for disabled veterans and disabled members of the Armed Forces, VA may request that entity to submit a grant application. To verify that only one entity is capable of providing an adaptive sports activity:

(1) VA must determine that the adaptive sports activity is available only from one eligible entity;

(2) VA must receive a written statement from an entity which verifies that a particular adaptive sports activity is only available from a named non-Federal entity; or

(3) After VA attempts to find competition for a grant by issuing a NOFA, VA receives only one application to provide the adaptive sports activity sought under the NOFA or having received no applications, engages a qualified adaptive sport entity to negotiate provision of the adaptive sports activity sought.

(b) To submit an application for a noncompetitive adaptive sports grant, an applicant must obtain from VA an adaptive sports grant application package and submit to VA the information called for in the adaptive sports grant application package within the time period established in the NOFA.

(c) The noncompetitive adaptive sports grant application must include:

(1) Information regarding the program design and supporting evidence directly linking the program to the achievement of the program's objectives;

(2) Documentation on the eligibility of the applicant to receive an adaptive sports grant and on why the award of a noncompetitive grant is warranted;

(3) Description of the type of adaptive sports activities that would be provided;

(4) Documentation concerning the estimated operating costs and operating budget for the adaptive sports activities for which a grant is sought;

(5) Documentation that the applicant has the technical expertise needed; and

(6) Reasonable assurances that if the applicant receives an adaptive sports grant under this part:

(i) It will provide adequate financial and administrative support for providing the services set forth in the adaptive sports grant application and will actually provide such services; and

(ii) It will keep records and submit reports as VA may reasonably require, within the time frames required; and give VA, upon demand, access to the records upon which such information is based.

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.14 Grant agreements.

(a) General. After a grant is approved for award, VA will draft a grant agreement to be executed by VA and the grantee. Upon execution of the grant agreement, VA will obligate the grant amount. The grant agreement will include a provision requiring that the grantee will operate the program in accordance with the provisions of this part, 2 CFR Part 200, and the grant application.

(b) Equipment. If grant funds will be used to procure or operate adaptive sports equipment to directly provide adaptive sports activities, the grant agreement must provide that:

(1) Title to the adaptive sports equipment vests solely in the grantee, or, for leased equipment, in an identified lessor;

(2) The grantee will at a minimum, provide liability insurance for the adaptive sports equipment to the same extent they would insure adaptive sports equipment procured with their own funds; and

(3) Adaptive sports equipment will be safe to use and maintained in accordance with the manufacturer's recommendations.

(c) Use of funds for administrative and personnel expenses. (1) An eligible entity that receives a grant under this part may use a portion of the grant for administrative expenses and personnel expenses of the eligible entity. The amount that may be used for such expenses may not exceed:

(i) In the case of a grant made for adaptive sports activities taking place during fiscal year 2014, 10 percent of the total amount of the grant;

(ii) In the case of a grant made for adaptive sports activities taking place during fiscal year 2015, 7.5 percent of the total amount of the grant; and

(iii) In the case of a grant made for adaptive sports activities taking place during any subsequent fiscal year, 5 percent of the total amount of the grant.

(2) For purposes of § 77.14(c), personnel expenses include any costs associated with an employee of the eligible entity other than reimbursement for time spent by such an employee directly providing coaching or training for participants.

(d) Use of grant funds for individuals who are not veterans or members of the Armed Forces. The grant agreement may authorize grantees to support or provide services (including adaptive sports activities) to individuals with disabilities who are not veterans or members of the Armed Forces, or both, but will prohibit grant funds from being used to support or provide services (including adaptive sports activities) to those individuals.

(e) Restrictions on the participation of certain veterans and former servicemembers. The grant agreement will prohibit grant funds from being used to support or provide services (including adaptive sports activities) to veterans or former servicemembers who are barred from receiving VA benefits based on their service (see 38 U.S.C. 5303-5303A) and to veterans or former servicemembers who, if otherwise eligible, would be barred from receiving VA pension, compensation or dependency and indemnity compensation based on the character of their discharge from military service (see 38 CFR 3.12).

(Authority: 38 U.S.C. 521A(d)(4))

§ 77.15 Payments under the grant.

(a) Payments to grantees. Grantees are to be paid in accordance with the timeframes and manner set forth in the NOFA.

(b) Payments to subgrantees. Payments of grant funds by grantees to subgrantees (including entities with which the grantee has entered into a partnership) for instruction, participation, and competition in sports may only be made for instruction, participation, and competition in Paralympic sports.

(Authority: 38 U.S.C. 521A)

§ 77.16 Grantee reporting requirements.

(a) Annual report. All grantees must submit to VA, not later than 60 days after the last day of the Federal fiscal year for which a grant is provided under this part, an annual report which sets forth the following information for that fiscal year:

(1) A detailed record of the time involved in providing adaptive sports activities through direct personal interaction with participants and time expended in adaptive sports activities that do not involve direct personal interaction with participants;

(2) A detailed record of the individual adaptive sports activities conducted;

(3) A detailed record of the adaptive sports programs carried out at the national and local levels through partnerships with VA, DoD, VSOs, and other adaptive sports entities;

(4) The number of veterans and the number of participants in the adapted sports activities funded by the grant including those who participated in any programs carried out through a partnership under this part;

(5) The locations where adaptive sports activities were conducted; and

(6) A detailed accounting of how the grant funds were used including the administrative and personnel expenses incurred by the grantee in carrying out the program and such expenses paid for using grant funds.

(b) Quarterly report. All grantees must submit to VA a quarterly report 30 days after the close of each Federal fiscal quarter of the grant period which includes the

same information required for annual reports, as well as projected change requests if applicable.

(c) Program variations. Any changes in a grantee's program activities which result in deviations from the grant agreement must be reported to VA.

(d) Additional reporting. Additional reporting requirements may be requested by VA to allow VA to fully assess program effectiveness.

(e) Annual report compliance. If a grantee does not submit the annual report required under this section for any fiscal year, the grantee shall not be eligible to receive a grant under this part for the subsequent fiscal year.

(Authority: 38 U.S.C. 521A(j))

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.17 Recovery of funds by VA.

(a) Recovery of funds. VA may recover from the grantee any funds that are not used in accordance with a grant agreement. If VA decides to recover funds, VA will issue to the grantee a notice of intent to recover grant funds, and grantee will then have 30 days to submit documentation demonstrating why the grant funds should not be recovered. After review of all submitted documentation, VA will determine whether action will be taken to recover the grant funds.

(b) Prohibition of additional adaptive sports grant payments. When VA makes a final decision that action will be taken to recover grant funds from the grantee, VA must

stop further payments of grant funds under this part until the grant funds are recovered and the condition that led to the decision to recover grant funds has been resolved.

(Authority: 38 U.S.C. 521A)

§ 77.18 Visits to monitor operations and compliance.

VA has the right, at all reasonable times, to make visits to all grantee locations where a grantee is using adaptive sports grant funds in order to review grantee accomplishments and management control systems and to provide such technical assistance as may be required. VA may conduct inspections of all program locations and records of a grantee at such times as are deemed necessary to determine compliance with the provisions of this part. In the event that a grantee delivers services at a location away from the grantee's place of business, VA may accompany the grantee. If any visit is made by VA on the premises of the grantee or a subcontractor under the adaptive sports grant, the grantee must provide, and must require its subcontractors to provide, all reasonable facilities and assistance for the safety and convenience of the VA representatives in the performance of their duties. All visits and evaluations will be performed in such a manner as will not unduly delay services.

§ 77.19 Financial management.

(a) All recipients will comply with applicable requirements of the Single Audit Act Amendments of 1996, as implemented by 2 CFR part 200.

(b) All grantees must use a financial management system that complies with 2 CFR Part 200. Grantees must meet the applicable requirements of OMB's regulations on Cost Principles at 2 CFR part 200.

(The information collection requirements have been submitted to OMB and are pending OMB approval.)

§ 77.20 Recordkeeping.

Grantees must ensure that records are maintained in accordance with 2 CFR part 200. Grantees must produce such records at VA's request.

§ 77.21 Application of other regulations.

For purposes of this part, the requirements in 38 CFR parts 43 and 49 are superseded by those in 2 CFR part 200.

[FR Doc. 2014-15191 Filed 06/27/2014 at 8:45 am; Publication Date: 07/01/2014]